

ENTERED

February 27, 2025

Nathan Ochsner, Clerk

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

ADAEL GONZALEX GARCIA,

Plaintiff,

v.

HARRIS COUNTY TEXAS,

Defendant.§
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CIVIL ACTION No. 4:23-CV-0542

ORDER

Plaintiff Adael Gonzalez Garcia (“Plaintiff”) filed this suit against Defendant Harris County, Texas (“Defendant”) on February 14, 2023 alleging a violation of his constitutional rights due to being beaten by prison guards. ECF 1. On November 13, 2024, the Court granted Plaintiff’s Motion for Leave to Amend and for Reconsideration and vacated its prior Memorandum Opinion and Order dismissing this case.¹ ECF 47. Thereafter, with leave of court, Plaintiff filed a Second Amended Complaint. ECF 48. Defendant, also with leave of court, filed a Motion to Dismiss the Second Amended Complaint for failure to state a claim. ECF 53. Contemporaneously with his Motion to Dismiss Response, Plaintiff filed a Motion

¹ The parties consented to proceed before the Undersigned Magistrate Judge for all proceedings, including trial and final judgment, pursuant to 28 U.S.C. § 636(c) and Federal Rule of Civil Procedure 73. ECF 17; ECF 38.

for Leave to Amend seeking to file a Third Amended Complaint.² Instead of responding to Plaintiff's Motion for Leave to Amend, Defendant filed a renewed Motion to Dismiss for failure to state a claim (ECF 64), to which Plaintiff filed a Reply. ECF 65.

In the current Motion to Dismiss, Defendant objects to Plaintiff's attachment of a confidential video from inside the jail as Exhibit 1 to the proposed Third Amended Complaint. ECF 64 at 7. At the February 10, 2025 hearing on Defendant's Motion for a Protective Order governing the jail video, Plaintiff's counsel represented that Exhibit 1 to the proposed Third Amended Complaint is a youtube video of a KHOU 11 investigative report titled "STRUCK: Inside Harris County Jail" that was released on December 5, 2024, and does not include any footage from the jail video that is the subject of the Protective Order. The Court accepted counsel's representation as an officer of the court. Defense counsel has now had ample opportunity to review the cited youtube video and has not alerted the Court to any inaccuracy in Plaintiff's counsel's representations to the Court at the February 10, 2025 hearing.

In light of the procedural history described above, it is

ORDERED that Plaintiff's Motion for Leave to Amend (ECF 58) is

² The proposed Third Amended Complaint is mistitled "Second Amended Complaint" and is attached to the Motion. ECF 58-1.

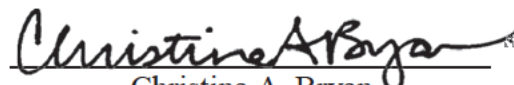
GRANTED. Plaintiff must file on the docket his Third Amended Complaint in the form attached to the Motion at ECF 58-1, with the corrected title, within 5 days of entry of this Order. It is further

ORDERED that Defendant's December 18, 2024 Motion to Dismiss (ECF 53) is DENIED AS MOOT in light of the Third Amended Complaint. It is further

ORDERED that Defendant's January 29, 2025 Motion to Dismiss remains pending. It is unclear to the Court if Plaintiff intended his Reply (ECF 65) to also serve as his Response to the Motion to Dismiss. It is therefore

ORDERED that Plaintiff may file a Response to the Motion to Dismiss (ECF 64) within 21 days of entry of this Order. Defendant may file a Reply within 14 days of filing of Plaintiff's Response.

Signed on February 27, 2025, at Houston, Texas.


Christina A. Bryan
United States Magistrate Judge